The Solicitors' Journal

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CURRENT TOPICS

Increased Fee for Practising Certificate

WHEN every day brings news of fresh price increases it need occasion no great surprise that even the solicitor's practising certificate will cost more. Some forewarning was given in the Solicitors Act, 1950, which gave the Master of the Rolls power to increase the fee up to £5. An order has now been made to take effect from 15th November, 1951, fixing at £3 the fee payable on the issue of a practising certificate after the end of the current practice year. This should, the *Law Society's Gazette* for May states, lead to some revision of the rates and classes of membership subscription, provided that economic and other conditions remain reasonably stable and adequate reserves on a basis comparable with the pre-war reserves are established in The Law Society's account. A review of subscription rates will entail consideration of the rates as between London and provincial members, as between newly admitted solicitors and those of longer standing, and as between members who practise on their own account and those who are assistant or employed solicitors. The Council will prepare a scheme as soon as it is judged that the Society's finances have been sufficiently strengthened.

Legal Aid and Advice: Notes for Guidance

FURTHER assistance and advice on difficult points arising out of the Legal Aid and Advice Scheme are given in the *Law Society's Gazette* for May, 1951. The first relates to pensions appeals. The Council of The Law Society advise that it is not reasonable to grant a civil aid certificate or emergency certificate where the applicant is entitled to the benefit of s. 6 (2) of the Pensions Appeal Tribunals Act, 1943, and r. 28 of the Pensions Appeal Tribunals Rules, under which the Ministry pays the costs of an appeal and the reasonable costs of making or opposing the application for leave to appeal. In matrimonial causes the local committee should assume that the case will be undefended and uncomplicated, and in such cases the actual contribution should be fixed at £55 in desertion cases where service by advertisement is not required, at £75 in medical nullity cases, and £65 in all other cases, or at the amount of the maximum contribution determined by the National Assistance Board, whichever is the less. A civil aid certificate or an emergency certificate in respect of a matrimonial cause should provide for the assisted person's solicitor to be at liberty to bespeak a transcript of shorthand notes of any proceedings in a court of summary jurisdiction between the parties to the marriage which is in question, provided that the cost of such transcript does not exceed £2. Where a certificate issued before the date of the note does not contain this provision, leave to bespeak the transcript should be granted as of course under reg. 14 (3) (*b*) of the Legal Aid (General) Regulations, 1950.

Town and Country Planning, 1943-1951

A PROGRESS report covering eight years of town and country planning up to the end of January, 1951, was published on 1st May as a White Paper. The Minister claims

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that one of his main concerns has been to simplify and speed up the administrative machine and, with this in view, he has relaxed planning control over some less essential matters, and restricted the scope of development charge. It is his aim to achieve still greater simplification and speed. The Minister, it is stated, has sought to lighten the burden on developers (in the General Development Order, 1950) partly by removing relatively minor operations from the need to obtain express permission and partly by providing that an "outline" application can be made to the local planning authority without detailed plans; only a description of the proposal and a site plan are necessary at this stage. This gives the developer a chance of finding out whether his proposals are likely to prove acceptable to the planning authority before he expends time or money on detailed plans. The report states that the substantial decrease during 1950 in the number of appeals against decisions of local planning authorities on applications for planning permission suggests that the accumulation of development proposals postponed during the war has been worked off; it may also be accounted for to some extent by relaxations made in 1950 which have prevented trivial cases from requiring any planning permission. The Minister expresses the hope that as the development plans take shape and the areas allocated to various types of development become more clearly defined, it will be possible to simplify development control so that fewer prospective developers will feel the need to appeal. Work is also well in hand on the complete survey (which is a requirement of the National Parks and Access to the Countryside Act) of all footpaths and bridleways in the country. The Act establishes a new and simple means of settling long-standing disputes about the legal status of footpaths and bridleways, many of which are of intense importance in the lives of country people.

Solicitors in the Magistrates' Courts

THE Council of The Law Society have ruled (May issue of the *Law Society's Gazette*) that it is improper for a solicitor or a firm of solicitors to appear before a bench where any partner or clerk or near relative of such partner or clerk is sitting as a justice or as the justices' clerk. The Council furthermore consider it undesirable that a solicitor or firm of solicitors should appear habitually before justices where any partner or clerk or near relative of such partner or clerk is on the same commission of the peace, even though he may not be sitting when the case is heard. Section 7 of the Justices of the Peace Act, 1949, replacing s. 54 of the Solicitors Act, 1932, the Council state, only prohibits, subject to exceptions in s. 7 (3) and (4), a solicitor who is a justice for the area, or his partner, from acting in connection with proceedings before any of the justices as solicitor or agent for the solicitor of any person concerned in the proceedings.

End of Canadian Appeals

THE imminent ending of the Canadian appeals to the Privy Council, by reason of a recently passed Canadian statute, was foreshadowed last week by the farewell appearance of Mr. JOHN FARRIS, K.C., as counsel. Mr. John Farris took part as senator in passing the legislation abolishing the appeals and it was clear from his tribute that the Canadian choice arises from their heightened national consciousness and not from their dissatisfaction with the work of the Judicial Committee as it has been done in the past. The fact that there are those who envisage a future Commonwealth Court which will preserve the unity of our common heritage shows that the link constituted by the Judicial Committee is not necessarily permanently severed.

Costs

APPEALS—IX

WE left our consideration of the costs in respect of an appeal to the Privy Council from a dominion or possession, etc., at the stage where a petition had been presented for special leave to appeal. The petition for special leave to appeal is, of course, a proceeding which is entirely distinct from the appeal proper, although, as we stated before, if the petition succeeds and leave is granted, and the appellant is successful and is awarded the costs of the appeal, then the costs in respect of the petition for special leave to appeal will, normally, form part of the cost of the appeal.

After leave is granted the order granting leave is, as we have seen, forwarded to the agents in the dominion, etc., for a decision to be made as to whether the appeal will be proceeded with. Assuming that it is decided that the appellant will go on to the Privy Council, then the next step is to enter an appearance. This proceeding is common to both the appellant and the respondent. The first item in the bill of costs in this country is the retainer fee, for which the solicitor is entitled to 13s. 4d., followed by a fee of 10s. for attending at the Privy Council Office for the purpose of ascertaining whether the record has arrived in this country. If it has not arrived then a memorandum will be left, and in due time a notice will be sent to the solicitor interested to the effect that the record has arrived, and he will attend for the purpose of taking a note of the relevant particulars to enable him to enter an appearance. A fee of 10s. is allowed for this attendance, and a further fee of the same amount is permitted for attending to enter the appearance. The charge for drawing the appearance is 5s., and the same fee is also allowed for giving notice to the respondent.

The next step in the proceedings before the Privy Council is to obtain a copy of the record. Where the record is printed abroad (and in this connection it will be remembered that the record may be printed either in England or abroad), the registrar of the court the judgment of which is the subject of the appeal will transmit to the Registrar of the Privy Council, at the expense of the appellant, forty copies of the record. It is again emphasised that in cases where the record is printed abroad the cost of such printing will not form part of the English costs of the appeal which are taxed in this country. Upon receipt of notice that the record has arrived, the appellant's solicitor will attend at the Privy Council Office and obtain six prints of the record, for which he will be entitled to a fee of 10s. Having obtained prints of the record which have been printed abroad, the appellant's solicitor will be entitled to a fee of one guinea for perusing each eight pages, and, where there are maps or plans attached to the record, then he will be entitled to a further small fee for perusing these.

Where, on the other hand, the record is to be printed in England, then the registrar of the court in the dominion will transmit to the Registrar of the Privy Council one certified copy of the record and the appellant's solicitor will attend at the Privy Council Office for the purpose of bespeaking a copy thereof, and in respect of this attendance he will be entitled to a fee of 10s. He will also have to give an undertaking to pay the costs of copying the record for his use, and in due course he will be notified that the copy of the record is ready and he will attend and obtain the copy and

pay the Privy Council stationers' charges. Again, 10s. is allowed for this attendance.

It will be found on perusal of the Judicial Committee Rules that the record for use in the appeal must follow a prescribed form and, accordingly, when the appellant's solicitor obtains a copy of the record it will be his duty to peruse it in order to determine whether it conforms to the directions laid down in the rules. For perusing the copy record he will receive a fee of 6s. 8d. for each twenty-five folios, but if the record is not in conformity with the rules, then the solicitor will receive a further fee, the amount of which will depend on the length of the record and the amount of work involved in rearranging it.

When the appellant's solicitor has arranged the official copy of the record in the order which he considers to be proper, he will attend on the solicitor for the respondent, and agree the order of the documents with him, and will also agree as to the documents to be included or omitted. For this he is entitled to a fee of 10s. An index of the documents must then be drawn, for which 2s. per folio is allowed, and also marginal notes on the draft copy of the record. For the latter the prescribed fee is 6d. per folio. When all this has been done by the solicitor for the appellant a copy of the index must be made for the printer, at the rate of 6d. per folio, and the rearranged record, with the marginal notes inserted, and the copy of the index will be handed to the printer. The allowance for this is the customary 10s. In due time the proof of the printed record is received, and it has then to be checked with the official copy in the hands of the Registrar of the Privy Council. For attending at the Privy Council Office and checking the proof print against the official copy of the record a fee of one guinea for each eight pages is allowed in Indian and foreign cases, and in other cases one-half of this amount.

When all this has been done, the solicitor for the appellant will attend on the respondent's solicitor in order to compare the corrections that have been made and to obtain his consent to the necessary number of copies being struck off. For this a fee of 10s. is allowed. The same fee is paid for attending on the printer and instructing him as to striking off the requisite number of prints of the record, and a fee of 10s. is also allowed for attending and paying the printer's charges and obtaining the prints of the record.

Quite frequently there are appended to the record extracts from the colonial statutes and ordinances, and an allowance in the neighbourhood of five guineas is normally made for the work involved in preparing an appendix with the respondent's solicitor. A copy is made for the printer at the usual rate of 6d. per folio, and 10s. is allowed for attending on the printer and instructing him. The allowance for perusing and correcting the proof of the appendix is 10s. per sheet of eight pages.

All this is preliminary work in connection with the appeal and, as we have seen, is not such as will call for very great professional skill. A point has now been reached, however, when it is necessary to select the counsel to settle the case of the appellant and conduct the appeal before the Judicial Committee. Two counsel are normally allowed, not only to conduct the appeal, but also to settle the case, but only one retainer is permitted, and a fee of 10s. each may be charged for drawing and copying the retainer for counsel and attending him therewith. The fee allowed to counsel and his clerk in respect of the retainer is £2 7s.

Within the time limits specified in r. 29 of the Judicial Committee Rules, 1925, a petition of appeal must be lodged at the Privy Council Office. A petition of appeal states succinctly and in chronological order the principal steps in the proceedings leading up to the appeal, but will not contain any argumentative matter, to use the words of r. 30. A fee of 2s. per folio is allowed for drawing the petition, and a further fee of 6d. per folio for copying or engrossing it for lodging at the Privy Council Office. A copy of the petition must also be served on the solicitor for the respondent. The fee for each of the attendances to lodge and to serve the petition is 10s.

It may be necessary to have the petition settled by counsel, in which case he will settle the draft and will be allowed a fee of five guineas (clerk's fee 10s. 6d.), but, quite frequently, since the petition contains only statements of fact, it is not settled by counsel at all. Again, since the petition does not contain any argumentative matter, the parties are not required to attend the hearing of the petition, and the Judicial Committee make their order thereon without a hearing.

Following the notice that the order of the Judicial Committee has been made on the petition of appeal, the parties must lodge their respective cases. Here again, the cases may be printed either in England or abroad, but it is customary for the case to be drawn and printed in this country. In this event, the English solicitor will be entitled to a fee of £1 as instructions for case, 2s. per folio for drawing it, and 6d. per folio for each copy made for counsel to settle. A fee of 10s. for each attendance is allowed for attending on counsel with the copy case to settle, and to appoint a consultation thereon, whilst the fee for attending the consultation is £1. The case, as settled by counsel, is then copied for the printer and two attendances on him are allowed, one to instruct him with regard to the proof print, and one to return to him the proof print after it has been corrected and to instruct him as to the number of copies required. The solicitor's charge for perusing and correcting the proofs is one guinea for each eight pages in Indian and foreign cases and one-half of this amount in other cases. It is usual to have seventy-five prints of the case struck off, thirty of which have to be lodged at the Privy Council Office. A fee of 10s. is chargeable for attending to lodge the prints, and the same fee may be charged for attending to exchange cases with the respondent's solicitor. For perusing the respondent's case a fee of one guinea for each eight pages is allowed. Ten prints of the respective cases are exchanged.

When the appellant's solicitor has lodged his case, he should give notice thereof to the respondent's solicitor, for which notice he is allowed a fee of 5s. If within three days of the service of this notice the respondent has not lodged his case then the appellant's solicitor may serve what is known as a case notice, requiring him to lodge his case within one month of the date of the service of such case notice. The solicitor's charge for drawing and copying the case notice is 10s. and the same fee is also chargeable for serving it on the respondent's solicitors.

The next steps in the appeal are the binding of the record and the hearing, but we must leave consideration of this until the next article.

J. L. R. R.

The King has approved that Lord Justice MORRIS be sworn of the Privy Council on his appointment as a Lord Justice of Appeal.

Mr. G. T. MEREDITH has been appointed Recorder of West Bromwich.

The Hon. E. E. S. MONTAGU, C.B.E., K.C., and Mr. E. W. ROSKILL have been appointed Chairman and Deputy Chairman respectively of Southampton Quarter Sessions.

Mr. G. P. THOMAS has been appointed Deputy Chairman of Carmarthen Quarter Sessions.

A Conveyancer's Diary

FAMILY PROVISION: EVIDENCE

SECTION 1 (6) of the Inheritance (Family Provision) Act, 1938, provides that on any application under the Act the court shall have regard to (*inter alia*) the conduct of the applicant in relation to the testator or otherwise, and to any other matter or thing which in the circumstances of the case the court may consider relevant or material in relation to (amongst others) the applicant. Section 1 (7) then goes on to provide that on any such application the court shall also have regard to " the testator's reasons, so far as ascertainable, for making the dispositions made by his will, or for not making any provision or any further provision . . . for a dependant, and the court may accept such evidence of those reasons as it considers sufficient, including any statement in writing signed by the testator and dated . . ."

These latter provisions have now been considered in two cases, first in *Re Vrint* [1940] Ch. 920, and more recently in *Re Smallwood*, p. 108, *ante*, and [1951] Ch. 369.

In *Re Vrint* the applicant, the testator's widow, had taken proceedings against the testator in his lifetime for maintenance, and in contemplation of the hearing the testator's solicitor had prepared, on the testator's oral instructions, a proof of the evidence which the testator was ready to give. The solicitor had dictated the proof to a typist, who had transcribed it, and the solicitor had then sent it to the testator, who had returned it without correction, but unsigned and without any covering letter. This proof was later tendered in evidence by the testator's personal representative on the hearing of the widow's application under the Act. Her counsel objected to it on the ground that it was not admissible as evidence apart from s. 1 (7) of the Act, and that it was not admissible under that provision because it was not a statement in writing signed by the testator and dated; the expression " evidence " in s. 1 (7) meant strictly legal evidence, with the qualification that in addition to any evidence admissible on ordinary principles the court could consider a statement in writing signed by the testator and dated.

Bennett, J., rejected this argument. In his view the word " evidence " in the context of s. 1 (7) was not confined to legal evidence; if it were so confined, there would have been no necessity for inserting that provision in the Act at all. The proof was accordingly admitted.

In *Re Smallwood* the document to which objection was taken was a statement by one of the testator's sons, which contained, amongst other things, (*a*) reports of statements made to the witness by the testator concerning the applicant (who was the testator's widow); (*b*) allegations of a general character, not related to anything alleged to have been said by the testator, concerning the applicant's conduct towards the testator; and (*c*) allegations that the testator had complained to the witness of the applicant's conduct. It did not, in terms, give any reason for the testator's testamentary dispositions. Counsel for the applicant objected to this document on two grounds. First, he said, the document was not a statement of the testator's reasons, and therefore did not come within s. 1 (7). Alternatively, he said that if it was a statement of the testator's reasons, it still did not come within the ambit of s. 1 (7) because it was not a statement in writing by the testator.

On the first point Roxburgh, J., expressed the view that, *prima facie*, s. 1 (7) had been directed to statements by the testator of his reasons, and did not extend to statements by the testator of facts which the court might hold to constitute his reasons, but found this *prima facie* view to be irreconcilable with the decision in *Re Vrint*. Now the report of that case does not set out the testator's proof of evidence, nor is any indication given of its contents, but Roxburgh, J., considered it to be almost unthinkable that it contained any statement in terms about the testator's testamentary intentions. The testator's will appears to have been made after the applicant had commenced proceedings for maintenance against the testator, and the dispositions contained therein were doubtless influenced by those proceedings, but since there was no other connection between the will and those proceedings it is, indeed, almost inconceivable that the proof contained any statement in terms of the testator's reasons for his dispositions. On this assumption Roxburgh, J., held that s. 1 (7) extended to evidence not only of reasons given by the testator for making the dispositions actually made by the will, but to evidence of facts from which the court could infer the reasons of the testator for those dispositions.

The learned judge's personal inclination would apparently have led him to the contrary conclusion on this point but, *Re Vrint* apart, there are indications in the language of s. 1 (7) itself that the decision is the correct one. That subsection speaks of the court having regard to the testator's reasons " so far as ascertainable," and if these words refer solely to the problem of gathering evidence of the testator's reasons, there seems to be little reason for their inclusion, since that problem is specifically dealt with later in the subsection. It is at least possible that the words in question were intended to cover inferential evidence. If there were to be a hard and fast distinction, as a matter of law, between reasons, stated as such, on the one hand, and facts from which reasons may be inferred on the other, and if those reasons were held to come within the scope of s. 1 (7), but those facts did not, the process of ascertaining the reasons of a testator would simply be a matter of considering the evidence, and so far as that is concerned the court is expressly empowered to " accept such evidence . . . as it considers sufficient." The reference to ascertainment would, therefore, appear, in this context, to point to something else. It would also be a matter of some difficulty, in many cases, to draw a line between what constitutes a statement of reasons and what constitutes a statement of facts from which reasons can be inferred, especially having regard to the fact that statements of this kind are not, in the normal course of events, prepared with professional assistance.

On the other objection taken in *Re Smallwood*, viz., that the statement made by the testator's son was not admissible under s. 1 (7) because it was not a statement in writing signed by the testator, Roxburgh, J., held that the case was for all practical purposes indistinguishable from *Re Vrint*, but even if it had been possible to distinguish the two cases, the language of s. 1 (7) (" such evidence . . . as the court considers sufficient ") was so wide that the mere addition of an illustration of its scope could not, as a matter of construction, confine it within the suggested limits.

There is only one comment to make on this decision. The statement to which objection was taken included at least two distinct matters—the testator's reasons, and allegations concerning the applicant's conduct towards the testator. It was only in relation to the first of these matters that the objection was made, since it is only with the testator's reasons for his dispositions that subs. (7) of s. 1, with its extraordinary relaxation of the normal rules of evidence, is concerned. So far as the applicant's conduct towards the testator was in

issue, the statement was considered under subs. (6) of s. 1, and in relation to allegations directed to the applicant's conduct the ordinary rules of evidence apply; there is no relaxation of these rules in subs. (6). The point was immaterial in *Re Smallwood*, but it may not always be so, and this decision should not, therefore, be regarded as ousting all the rules of evidence in all circumstances in applications made under the Act of 1938. "A B C"

Landlord and Tenant Notebook

POSTPONEMENT OF ORDER FOR POSSESSION

THE decision of the Court of Appeal in the recent case of *Jones* v. *Savery* [1951] 1 All E.R. 820 (C.A.), in which it was held that a county court judge had misdirected himself in postponing execution of an order for possession (uncontrolled premises) for three months, adopted the principles laid down by a Divisional Court in *Sheffield Corporation* v. *Luxford* [1929] 2 K.B. 180.

In the earlier case, the plaintiff corporation recovered possession from a weekly tenant of a house on a housing estate which, having been erected since 2nd April, 1919, was excluded from the operation of the Increase of Rent, etc., Restrictions Act, 1920, by s. 12 (9) thereof. The exemption in favour of local authorities now to be found in the Rent, etc., Restrictions Act, 1939, s. 3 (2) (*c*), did not apply, and the county court judge made an order for possession, but (*a*) postponed its operation for twelve months, and (*b*) imposed conditions under which the defendant was (i) to pay "rent," and (ii) not to use the premises as a shop. It may be that the judge considered that a public authority should not take advantage of the exclusion (now more general: Housing Act, 1936, s. 83 (1)), and in *Shelley* v. *London County Council* [1948] 1 K.B. 274 (C.A.), Lord Greene, M.R., remarked at one stage of his judgment: "Two Divisional Courts whose decisions we have to consider were, I think, very much affected in their approach to the problem by the idea that the tenants of local authorities under the Housing of the Working Classes Acts ought, in fairness and common sense, to be entitled to precisely the same type of protection under the Rent Restrictions Acts as is conferred on the tenants of ordinary landlords," and, a little later, describing the position of such authorities, said: "They are, socially, much more responsible landlords . . . They may be trusted, one would have thought, to exercise their powers in a public-spirited and fair way in the general public interest . . ." Some readers will have met "council house tenants" who would incline to the view that the learned Master of the Rolls misdirected himself in reaching that conclusion; and there are some landlords who must take a poor view of the public spirit and fairness, e.g., the respondent in *Salisbury Corporation* v. *Roles* (1948), 92 Sol. J. 618. But, in *Sheffield Corporation* v. *Luxford*, the question depended mainly on the true interpretation of the operative words of s. 138 of the County Courts Act, 1888, then in force: "The judge may order that possession of the premises . . . be given by the defendant to the plaintiff, either forthwith or on or before such day as the judge shall think fit to name," and it was held that though "may" did not mean "must" it conferred a power which had to be exercised and exercised judicially; not to create, in effect, a new tenancy against the landlord's will. Apart from the conditions, postponement for twelve months was not such an exercise of the discretion as the Act of Parliament, in spite of its unlimited terms, contemplated or permitted. Constructive criticism was supplied by an indication that (i) the nature of the tenancy, (ii) the term, and (iii) the object of the Legislature, i.e., to relieve the judge of the necessity of making an order for possession to be given then and there without further warning to the tenant, were factors to be taken into account.

In *Jones* v. *Savery*, though the facts were in many respects different, the above reasoning was held to apply. The term was a weekly one, and the premises housed a living creature; but the plaintiff was not a public authority, and the animate being was a horse. The plaintiff had, in fact, given the defendant notice to quit and deliver up the stable as long ago as July, 1950, and did not take proceedings till December of that year. The action was heard on 22nd January, 1951, and the county court judge made an order for possession, postponing its execution for three months. He also "deprived the landlord of his costs"; according to Singleton, L.J., it was on this question that he had been "moved by kindly feelings towards the tenant and his horse"; one would have expected the consideration to have operated rather in relation to the length of order question, suitable alternative accommodation perhaps not being available; and that when it came to costs the learned judge was perhaps influenced by, and had given unjudicial effect to, the great kindness shown by the plaintiff and his solicitors, also mentioned by Singleton, L.J. At all events, both decisions were appealed.

There was also some difference in the law, as the County Courts Act, 1934, s. 48 (1), which has replaced s. 138 of the Act of 1888, says nothing about "either forthwith or on or before such day as the judge shall think fit to name"; but Ord. 24, r. 11, of the County Court Rules (which particular rule is dated 1938) says: "Every judgment or order requiring any person to do an act other than the payment of money or costs shall state the time within which the act is to be done," which, according to Singleton, L.J., suggested that there was power to postpone for a short period; Somervell, L.J.'s judgment seems rather to invoke something like an inherent discretion, such as was recognised in *Kelly* v. *White*; *Penn Gaskell* v. *Roberts* [1920] W.N. 220. And the court were unanimous, having regard to the factors mentioned in *Sheffield Corporation* v. *Luxford*, that the maximum period should be a month. The period of the order was reduced accordingly, and, as the hearing was on 16th March, 1951, it became effective immediately.

Another difference between the two cases was, of course, that in *Jones* v. *Savery* no conditions had been imposed. The validity or effectiveness of such conditions was doubted but not definitely determined in *Sheffield Corporation* v. *Luxford*; inserting them was no doubt suggested by the wide power to make conditional orders in the case of controlled premises (1920 Act, s. 5 (2)). No mention is made, indeed, of any claim having been made for mesne profits in *Jones* v. *Savery*; one assumes that they were either paid or claimed and awarded, but the circumstance reminds one of one rather unsatisfactory feature of county court jurisdiction as compared with that of the High Court. In the latter, mesne profits can be awarded till the date of possession (*Southport Tramways Co.* v. *Gandy* [1897] 2 Q.B. 66 (C.A.)), but in the county court, unless premises are controlled and a suspended order made on suitable conditions, the landlord can only sue for and recover mesne profits in respect of the period terminating with the date fixed for hearing (and the hearing may

be adjourned) and must bring a separate action later for damages suffered by occupation continuing after that date.

In both *Sheffield Corporation* v. *Luxford* and *Jones* v. *Savery* reference was made to the right to re-enter without legal process; in the former most strongly by counsel for the plaintiffs, who argued that all that induced the landlord to resort to the county court was by the ministry of that court to give effect to his right to possession by force and also to save himself from taking measures for resuming possession, the validity of which argument was approved by Talbot, J. In *Jones* v. *Savery* this feature of the position was referred to only by Denning, L.J., and it is, indeed, the only point made (by way of additional reasoning) in his judgment. "If, therefore, this horse had been taken out for exercise, the landlord had a perfect right to shut the stable door and then to take possession. It may be that he could enter the stable and lead the horse out and put it into a field and thus take possession." The learned lord justice refrains from giving us a new *dictum* on the legality or otherwise of forcible entry of the *vi et armis* variety, on which opinions are known to differ; but reference might be made to *Jones* v. *Foley* [1891] 1 Q.B. 730, in which a landlord was held to have committed no wrong by removing the roof of a cottage after obtaining a warrant for possession under the Small Tenements Recovery Act, 1837, but before the twenty-one days given by that warrant had elapsed. It has been suggested, in the latest edition of "Foa," that a landlord so doing might be liable to penalties under the Public Health Act, 1936, s. 92, in view of *Betts* v. *Penge U.D.C.* [1942] 2 K.B. 154; but that enactment is not concerned with the health or well-being of horses, and, if a landlord should infringe either the Public Health Act, 1936, or the Protection of Animals Act, 1911, in the course of peaceful re-entry, the tenant will not be entitled to make him go out and do the thing all over again, issuing proceedings this time.

R. B.

HERE AND THERE

STRANGE CONTINUITY

THOSE of us who were grown up or worse (*eheu fugaces!*) in 1939 find it hard to look with a fresh eye at the wide open spaces of war damage which still, in this year of festivity, lend great tracts of the central London scene something of the air of a preview of what the archæologists of two or three thousand years hence will see when they are trying to spell out a reconstruction of this splendid century of the common man from a handful of rusty nuts and bolts and half a lift gate. Most of the damage is now ten years old and the peace (if that is what we care to call it, for want of a worse word) is six years old, yet those who were adult when the war was touched off still see in their minds the deserted spaces filled with the buildings that used to be there. It is almost as if the old houses had gone off on a holiday and might come back at any moment. But to the younger unremembering eye these spaces must be just a vacuum, virgin sites, building lots with no real relation to the past at all and, so far as one can see at present, in the case of most of them, only a remote and hypothetical future. It is, therefore, of curious interest to note to what a great extent the rebuilding up to now is following traditional lines—even how much of what was lost is being actually reproduced, particularly in the legal quarters.

THE UNCHANGING INNS

TAKE a quick look round those parts. Apart from consolidation of partly damaged buildings, Gray's Inn has given first priority to an elaborate reconstruction of its Tudor Hall from nothing but a burnt-out shell. Already the griffin weathercock swings above the new louvre (that's the turret on the ridge of the roof where the smoke used to emerge in the days of the open hearth in the centre of the floor) and the armorial glass, looking a good deal newer for the cleaning off of its fine patina of dirt, is in the windows. All should be finished by the autumn. The two great gaps in Gray's Inn Square will be filled in to harmonise externally with what remains, though internally, in concession to a taste for softer living than our fathers demanded, there will be such amenities as central heating. In Lincoln's Inn, Stone Buildings will soon be fully restored to its pre-war façade, though with lifts inside and a modernisation of the hitherto incredibly primitive lavatory accommodation. In New Square, No. 11, shaken into uninhabitable insecurity by a great bomb at the corner of Lincoln's Inn Fields, has been virtually rebuilt with an almost identical exterior masking a delightfully remodelled interior and (imperceptible from below) a flat roof with unbounded possibilities as a roof garden for the lucky tenants of the upper floors. In the Temple in King's Bench Walk and Mitre Court Buildings vanished chambers have risen, or are rising, again to match their neighbours and their predecessors; the gutted Church of the Knights is in process of restoration, Middle Temple Hall is as it was and the Cloisters are just beginning to re-assume their former shape. After such a lapse of time, this continuity of tradition is really quite extraordinary.

PLAN FOR SERJEANTS' INN

NOW do you remember Serjeants' Inn? It lay between Lombard Lane and Mitre Court, east and west, and Fleet Street and the Inner Temple's Niblett Hall, north and south—a pleasant L-shaped courtyard of red brick houses of the eighteenth century with one stately stone Adam building, on the site of the former Hall of the Serjeants, which housed the offices of the Incorporated Council of Law Reporting. The Inn had been burnt in the Great Fire, rebuilt with funds raised by the creation of seventeen new Serjeants and rebuilt again in the eighteenth century; it had lost its *raison d'être* when the members migrated to join their brethren of the other Serjeants' Inn in Fleet Street. In those days it was separated from Mitre Court on the west by the notorious Ram Alley, a place where every sort of nuisance and disorderly house flourished luxuriantly. Indeed, it was not till the 1820's that the Inner Temple managed to enlarge its sphere of influence in that direction to the extent of buying up properties there, widening Mitre Court and squeezing Ram Alley out of existence. Serjeants' Inn was destroyed in May, 1941, and the problems of rebuilding in and about it have involved co-operative agreement between the Inner Temple, the Council of Law Reporting, the Norwich Union Insurance and Hoare & Co., the bankers. A plan has been settled and, if you happen to be passing that way, you will see the thoroughness with which the site has been cleared (incidentally, it has been revealed that the old Inn was built on top of a dump of debris from the Great Fire). The plan is ingenious and promises to add considerably to the charm of the neighbourhood. The ancient gates of the Inn are to be brought back from Norwich to adorn the entrance from Fleet Street into a quadrangle of eighteenth century character built in mellow red brick. Behind this, bordering on Lombard Lane and with its back to it, will be the new building of the Law Reporting Council facing west, with, beneath it, two archways giving access from the lane to an underground car park. Above the car park and along the north boundary of the Inner Temple there will be a formal garden of flowering trees. If all goes well this may be accomplished in two years; otherwise, who knows? Up in

Holborn some alarm and apprehension may have been caused by the sudden and complete disappearance of the little garden behind Staple Inn under a conglomeration (it is no less) of hoardings, hutments and giant excavators. I am told that this is something to do with works for the underground railway and that in due course the garden and the rest of the war-damaged Inn will be restored.

RICHARD ROE.

BOOKS RECEIVED

The Companies Act, 1948. By S. W. MAGNUS, B.A., of Gray's Inn, Barrister-at-Law, and M. ESTRIN, Associate of the Society of Incorporated Accountants and Auditors. Second Edition. 1951. pp. xxxi and (with Index) 355. London: Butterworth and Co. (Publishers), Ltd. 50s. net.

Manual of Fire Service Law. By P. PAIN, M.A., of Lincoln's Inn and the South-Eastern Circuit, Barrister-at-Law. 1951. pp. xviii and (with Index) 479. London: The Thames Bank Publishing Co., Ltd. 20s. net.

Cases on Private International Law. By J. H. C. MORRIS, D.C.L., of Gray's Inn, Barrister-at-Law. Second Edition. 1951. pp. xxvii and 417. London: Oxford University Press. 30s. net.

Rating Assessments. 1951. pp. 12. London: The Incorporated Association of Rating and Valuation Officers. 6d. net.

Brighouse's Forms of Wills. Sixth Edition by E. F. GEORGE, LL.B., Solicitor of the Supreme Court, and J. H. GEORGE, LL.B., Solicitor of the Supreme Court. 1951. pp. xii and (with Index) 106. London: Sweet & Maxwell, Ltd. 15s. net.

The History of Capital Punishment. By G. R. SCOTT, F.Ph.S. (Eng.), F.Z.S., F.R.A.I. 1951. pp. xx and (with Index) 312. London: Torchstream Books. 21s. net.

Lieck and Morrison on Domestic Proceedings. Supplement by A. C. L. MORRISON, C.B.E., formerly Senior Chief Clerk of the Metropolitan Magistrates' Courts. 1951. pp. xvi and 65. London: Butterworth & Co. (Publishers), Ltd. 9s. 6d. net.

Oyez Practice Notes, No. 20: Conveyancing Costs. By J. L. R. ROBINSON. 1951. pp. (with Index) 94. London: Solicitors' Law Stationery Society, Ltd. 7s. 6d. net.

Oyez Practice Notes, No. 22: Probate and Administration Costs. By J. L. R. ROBINSON. 1951. pp. (with Index) 58. London: The Solicitors' Law Stationery Society, Ltd. 5s. net.

Stephen's Commentaries on the Laws of England. Supplement to Twenty-first Edition, by L. C. WARMINGTON, Solicitor of the Supreme Court (Hons.). 1951. pp. 30. London: Butterworth & Co. (Publishers), Ltd.

Arms of the Law. By MARGERY FRY. 1951. pp. (with Index) 255. London: Victor Gollancz, Ltd. 12s. 6d. net.

Tolstoy's Law and Practice of Divorce and Matrimonial Causes. First Supplement to Second Edition, by D. TOLSTOY, of Gray's Inn and the South-Eastern Circuit, Barrister-at-Law. 1951. pp. viii and 142. London: Sweet & Maxwell, Ltd. 10s. 6d. net.

Register of Surveyors, Land Agents, Auctioneers and Estate Agents. 1951. pp. xxvi and 1001. London: Thomas Skinner & Co. (Publishers), Ltd. 40s. net.

The Legal Aspects of Business. By H. R. LIGHT, B.Sc. (Lond.), F.C.I.S., with a Foreword by Sir ROLAND BURROWS, K.C., LL.D., Recorder of Cambridge. Second Edition. 1951. pp. xix and (with Index) 316. London: Sir Isaac Pitman and Sons, Ltd. 15s. net.

The Rent Acts. By R. E. MEGARRY, M.A., LL.B., of Lincoln's Inn, Barrister-at-Law. Sixth Edition. 1951. pp. lxxvi and (with Index) 635. London: Stevens & Sons, Ltd. 50s. net.

County Court Manual. By R. C. L. GREGORY, LL.B. (Hons.), of Gray's Inn and the Lord Chancellor's Department, Barrister-at-Law. Second Edition. 1951. pp. (with Index) 128. London: H.M. Stationery Office. 6s. net.

Current Law Year Book, 1950. General Editor: JOHN BURKE, Barrister-at-Law; Year Book Editor: CLIFFORD WALSH, LL.M., Solicitor of the Supreme Court. 1951. London: Sweet & Maxwell, Ltd.; Stevens & Sons, Ltd. 42s. net.

Addington, Author of the Modern Income Tax. By A. FARNSWORTH, LL.D., Ph.D. 1951. pp. xii and (with Index) 140. London: Stevens & Sons, Ltd. 21s. net.

REVIEWS

Lewin's Practical Treatise on the Law of Trusts. Fifteenth Edition and Supplement. By R. COZENS-HARDY HORNE, of Balliol College and Lincoln's Inn, Barrister-at-Law. 1950. London: Sweet & Maxwell, Ltd. £5 5s. net.

One cannot say it without a blush, but the purpose of a new edition of an established text-book is to bring up to date the statements of the law contained in the previous edition. Measured by this obvious standard the new edition of "Lewin," it is regrettable to say, is hardly an unqualified success. It is impossible for a reviewer to read the whole of this massive book, but here are some omissions or deficiencies which a perusal of selected passages has brought to light. *Re Bower's Settlement Trusts* [1942] Ch. 197, a decision of the first importance on accruer, is not cited. *Re Stapleton-Bretherton* [1941] Ch. 482 was a much more far-reaching decision than the sole reference to it on p. 144 (where it is cited as an additional authority on an already well-established point) would lead the reader to expect. The note on *Re Dennis' Settlement Trusts* [1942] Ch. 283 does not refer to *Re Wightman* [1947] 2 All E.R. 647*n*, or suggest how unsatisfactory the former decision is (the latter decision is noted in the list of cases as referred to on p. 21; the reference should, in fact, be to p. 120). *Re Wright's Settlement Trusts* [1945] Ch. 211 is not an authority for the proposition in support of which it is cited on p. 241. The section on the exercise of a discretion by trustees could usefully refer to *Howard* v. *Howard* [1945] P. 1, and that on s. 57 of the Trustee Act, 1925, to *Re Symons* [1927] 1 Ch. 344, a decision on the analogous provisions of s. 64 of the Settled Land Act, 1925 (which is, indeed, mentioned in the latter connection, but is also a useful guide in the relatively uncharted waters of s. 57). On s. 64, there is no mention of *Re Scarisbrick Settlement Estates* [1944] Ch. 229. *Re United Law Clerks Society* [1947] Ch. 150 is surely an indispensable case on the meaning of "securities," however special the circumstances in which the question there arose. The note on *Re Wellsted's Will Trusts* [1949] Ch. 296 (C.A.), on p. 381, is incomplete, and the reference to the report in the *Weekly Notes* is not very satisfactory in a book published in 1950. The note on *Re Power's Will Trusts* [1947] Ch. 572 could usefully include a reference to the fact that an application under s. 57 of the Trustee Act, 1925, was acceded to after the construction point had been disposed of, a fact fairly generally known since a note to that effect appeared in this journal ((1947), 91 SOL. J. 541). The note on the remedy *in personam* as applied in *Re Diplock* [1948] Ch. 465 (C.A.) does not bring out sufficiently clearly, for a book on trusts, the fact that this remedy, unlike the remedy *in rem*, is open only to a beneficiary interested in the estate of a deceased person, and not to a beneficiary under a trust.

The treatment accorded to statutes passed since the last edition was published in 1939 is also unsatisfactory. The account of the effect of the Exchange Control Act, 1947, on trusts and trustees, on p. 35, is extremely sketchy, and there is no note under the heading of powers of a tenant for life as to his statutory power to enter into covenants under the Forestry Act, 1947, or the National Parks, etc., Act, 1948. There are one or two references to the Town and Country Planning Act, 1947, but they are somewhat gingerly: *vide* the inverted commas with which development charges are surrounded in a footnote on p. 570, as if to prevent these strange monsters from escaping into the immemorial calm of the law of trusts. On the other hand, two war-time Acts

(Execution of Trusts (Emergency Provisions) Act, 1939, and Settled Land and Trustee Acts (Court's General Powers) Act, 1943) are printed in full in the appendix, although both have expired (the date of expiry of the latter is given on p. 885, erroneously, as 1943, which makes matters even worse).

A supplement is issued with this edition, to bring the statement of the law up to the 1st January, 1951. The tendency to omit relevant matters shown in the parent volume appears to have had a contagious effect on the learned author of the supplement, who has found no room for mention of either *Re Scholfield's Will Trusts* [1949] Ch. 341, or *Re Harari* [1949] 1 All E.R. 430. These omissions are ill-balanced by the inclusion of full notes of some strangely assorted cases on charitable trusts, which if regularly added to will turn "Lewin" into an imitation "Tudor," and the inclusion of which is flatly contradictory to the statement on p. 454 of the parent volume that "the authorities which determine what are charitable purposes . . . are numerous, and as they are not always easy to reconcile it would be misleading to select examples at random," and the note thereto referring the reader to the specialist books on charities.

"Lewin" is an indispensable book for the practitioner, who will buy this new edition because he must keep his knowledge of, or at least his means of informing himself on, the law of trusts and trustees up to date; and, of course, a great deal of new matter has been incorporated in this new edition. But the higher the standard of the book, the more is expected from its editor, and this edition is far from being as good as it should be. In making these criticisms and suggestions the reviewer has not forgotten the difficulties involved in the preparation of a new edition of a book such as "Lewin" at the present, when counsel in regular practice simply have not the time to devote to this sort of work; but the reviewer's primary duty is to his readers, and candour must be his first consideration, however repugnant the consequences. It is some relief to be able to praise without reservation the elegant appearance of this book, the generous spacing of the printed matter, the strength of the binding and the excellent lists of cases and statutes, and index, which it contains.

Fingerprints: Scotland Yard and Henry Faulds. By G. W. WILTON, B.L. Edin., K.C. Scots Bar, of the Middle Temple, Barrister-at-Law. 1951. Edinburgh: W. Green & Sons, Ltd. 7s. 6d. net.

Mr. Wilton's article in the *Juridical Review* for August, 1950, in which he put forward the claims of Dr. Henry Faulds to share with Sir William Herschel the distinction of having independently conceived of the identification of criminals by registration of their fingerprints, is here reprinted. The author has added an appendix of remarkable fingerprint cases and some biographical notes.

The Stock Exchange Official Year-Book, 1951. Volume I. Editor-in-Chief: Sir HEWITT SKINNER, Bt. Edited by A. F. B. COOKE. Deputy-Editor P. E. RILEY. 1951. London: Thomas Skinner & Co. (Publishers), Ltd. Two Volumes £6 net.

The Stock Exchange Official Year-Book is now in its seventy-seventh year. In this volume special attention has been given to the rights of preference shareholders, and whenever articles of association make special provision as to whether the creation or issue of further shares is deemed to be a modification of preferential rights, that fact is shown in the text. The volume contains chapters on Government, municipal and county finance, and full information regarding Government securities, including dominion, colonial and foreign, and the stocks of municipalities and counties. New features are the table of charges for quotation to be made by the Council of the Stock Exchange and by the Associated Stock Exchanges, and the minimum scale of commissions in accordance with the rules and regulations of the Stock Exchange. Volume II, the publishers state, will appear next August, together with the Register of Defunct and Other Companies.

NOTES OF CASES

JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

WILL: RESIDUARY GIFT

McDonnell *v.* Neil

Lord Simonds, Lord Morton of Henryton, Lord MacDermott, Lord Radcliffe and Lord Tucker. 6th March, 1951

Appeal from the High Court of Australia.

By his will, dated 11th September, 1902, the testator, who died on 11th June, 1904, and was survived by his daughters Grace, a widow, and Emily, a spinster, after making certain specific devises and bequests, left the residue of his real and personal estate on trust "for my said two daughters Grace McDonnell and Emily Sarah McDonald for life in equal shares with remainder in fee to their issue in equal shares their grandchildren if any taking *per stirpes*." At the date of the will and of the testator's death his daughter Grace was a widow with three children, and Emily was a spinster. Shortly after the testator's death Emily married and had one child, a daughter. One child of Grace predeceased her, leaving a son. Both the other children of Grace survived her and had children. Emily died in 1937 and Grace in 1948. By an originating summons it was asked whether "the corpus of the residuary estate . . . is divisible equally *per stirpes* or *per capita* among the children of Grace . . . and of Emily . . . deceased respectively . . ." The High Court (Dixon and Williams, JJ.; Latham, C.J., dissenting) held, affirming Sugerman, J., of the Supreme Court of New South Wales, that the corpus of the residuary estate had been divisible since the death of Grace between the daughter of Emily as to one moiety thereof and the two children of Grace and the son of her predeceased child as to the other moiety. The children of Grace and her grandchild now appealed, the daughter of Emily being respondent to the appeal.

LORD SIMONDS, delivering the judgment of the Board, said that it was clear that the relevant words of the testator's will, few in number and at first reading simple enough, gave rise to great difficulty. It appeared to their lordships, however, that, without the invocation of authority or of any artificial rule of construction, the residuary trust for the testator's two daughters for life in equal shares with remainder in fee to their issue in equal shares ought to be construed as meaning that on the death of either daughter the gift in remainder of the equal share of the corpus, of which she enjoyed the income during her life, was to take immediate effect. His lordship referred to *In re Hutchinson's Trusts* (1882), 21 Ch. D. 811, Hawkins on Wills (3rd ed.), p. 150, and Jarman on Wills (7th ed.), p. 1690, and said that the Board were of opinion that on the true construction of the will there was a trust of one moiety for Grace for life with remainder to her issue and a trust of the other moiety for Emily for life with remainder to her issue. Appeal dismissed.

APPEARANCES: *G. R. Upjohn*, K.C., and *J. H. Sparrow* (*G. & G. Keith*); *R. Jennings*, K.C., and *M. J. Albery* (*Young, Jones & Co.*).

(Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

COURT OF APPEAL

PROFITS TAX: "CONTROLLING INTEREST"

Inland Revenue Commissioners *v.* Silverts, Ltd.

Evershed, M.R., Jenkins and Hodson, L.JJ. 5th March, 1951

Appeal from Romer, J. (94 SOL. J. 535).

In 1940, there were four directors of the respondent company. The share capital (in shares of £1) was held as to 6,000 "B" shares by director No. 1, and as to 3,500 and 2,500 "A" shares by Nos. 2 and 3 respectively, as trustees for a beneficiary. By a deed made in June, 1940, between the beneficiary as settlor, a bank as custodian trustee, and directors Nos. 2 and 3 as managing trustees, the "A" shares were transferred into the name of the bank as custodian trustee with the functions and

powers given by s. 4 of the Public Trustee Act, 1906. It was further provided that the trustees should stand possessed of the shares in trust for the son of the settlor. By s. 4 of the Act of 1906, the custodian trustee is to " concur in and perform all acts necessary to enable the managing trustees to exercise their powers of management or any other power or discretion vested in them." The Commissioners for the Special Purposes of the Income Tax Acts held that in those circumstances the directors of the company did not have a controlling interest in the company within the meaning of para. 11 of Sched. IV to the Finance Act, 1937, and that accordingly the company was not subject to the restrictions imposed by that paragraph on the treating of the remuneration of the directors as a deduction for the purpose of arriving at its taxable profits. The Crown's appeal was allowed by Romer, J., and the company now appealed. (*Cur. adv. vult.*)

EVERSHED, M.R., reading the judgment of the court, said that the question depended on the proper method of reconciling *British American Tobacco Co., Ltd.* v. *Inland Revenue Commissioners* [1943] A.C. 335, and *J. Bibby & Sons, Ltd.* v. *Inland Revenue Commissioners* (1945), 29 Tax Cas. 167, or on the correct appreciation of their scope. If the office of custodian trustee had not been interposed, and the " A " shares had by the 1940 settlement been vested, according to the more usual practice, in directors Nos. 2 and 3 as trustees, it was not open to doubt that, without regard to any beneficial interest, the *Bibby* case, *supra*, would have concluded the matter in favour of the Crown. If, again, the custodian trustee could be properly described as a " bare " trustee, in the sense in which that phrase was used in the *Bibby* case, *supra*, it would have been necessary to decide the precise point reserved in that case for further consideration. In their judgment the *ratio decidendi* in the *Bibby* case, *supra*, was that, in accordance with well-established principles relating to limited companies, a question of the rights of members *vis-à-vis* the corporation (such as that of voting control under its regulations) was to be determined by reference, and by reference only, to the share register, beyond which it was not (save, possibly, in the case of mere " nominee " shareholders) permissible to look; and not that, in the case of a trust, the powers and discretions of exercising votes in regard to shares must be treated as reposing in the trustees without regard to the terms of the trust or the rights of beneficiaries to direct such exercise. In the present case, the bank were the registered holders of all the " A " shares, and were not merely nominees or bare trustees. It followed, therefore, in their (their lordships') view, from the *Bibby* case, *supra*, that the controlling interest in the shares must, for the purposes of the present case, be treated as being in the bank, and that it was not permissible to investigate the character in which the bank exercised their voting rights as shareholder by reference to the terms of the 1940 settlement or of s. 4 of the Public Trustee Act, 1906, or otherwise. Appeal allowed.

APPEARANCES: *J. Pennycuick*, K.C., and *G. G. Honeyman* (*Clifford-Turner & Co.*); *Heyworth Talbot*, K.C., *J. H. Stamp* and *R. P. Hills* (*Solicitor of Inland Revenue*).

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

GAS UNDERTAKING: NATIONALISATION: FINANCIAL ADJUSTMENT BETWEEN AREA GAS BOARD AND LOCAL AUTHORITY

Hinckley Urban District Council *v.* West Midlands Gas Board

Evershed, M.R., Jenkins and Hodson, L.JJ. 12th March, 1951

Appeal from Lloyd-Jacob, J.

Under the Hinckley Local Board Gas Act, 1880, the plaintiff council carried on a gas undertaking which on 1st May, 1949, vested in the defendant board by virtue of the Gas Act, 1948. Part of the assets which vested in the defendants was the sum of £30,178 12s. 7d., that sum being the unapportioned profit accumulated during the last accounting period before the vesting date, viz., 1st April, 1948, to 30th April, 1949. The plaintiffs alleged that they were entitled to that sum which they intended to carry to the district fund and to apply in aid of the general rates of their area. Lloyd-Jacob, J., dismissed the action, and the plaintiffs appealed.

EVERSHED, M.R., said that it was admitted for the plaintiffs that most of the purposes to which the profits from the gas undertaking could be applied by virtue of s. 43 of the local Act of 1880 could not survive in view of the Gas Act, 1948, which took over the gas undertaking of the plaintiffs and vested it in the defendants, but it was argued on behalf of the plaintiffs that the only thing which could remain was the obligation to utilise the whole of the surplus profit by way of reduction of rates, which meant, in effect, an obligation to pay it over to the rating authority, namely, the plaintiffs. The Gas Act, 1948, s. 56 (2) (*a*), provided that all local enactments in force at the vesting date and applying to a statutory undertaker should have effect as if for references to the undertaker there were substituted references to the area board, but there was a subsequent proviso " that any such local enactment which provides for the regulation of charges made by the undertaker . . . shall cease to have effect, as from the vesting date." Section 43 of the local Act of 1880 was defeated by the exempting provisions of that proviso because it was either inconsistent with the Gas Act or made redundant by its provisions. There was nothing in s. 56 (2) to preserve the provision in s. 43 of the Act of 1880 for applying surplus profits in relief of the ratepayers.

JENKINS and HODSON, L.JJ., agreed. Appeal dismissed.

APPEARANCES: *A. Capewell*, K.C., and *F. N. Keen* (*Lees & Co.*, for *J. G. S. Tompkins*, Hinckley); *L. F. Heald*, K.C., and *J. P. Ashworth* (*Sherwood & Co.*, for *A. C. Croasdell*, Birmingham).

[Reported by CLIVE M. SCHMITTHOFF, Esq., Barrister-at-Law.]

CHARITIES: GIFT TO POOR RELATIONS: IMMEDIATE GIFT

***In re* Scarisbrick's Will Trusts; Cockshott *v.* Public Trustee**

Evershed, M.R., Jenkins and Hodson, L.JJ. 16th March, 1951

Appeal from Roxburgh, J.

By her will dated 27th July, 1911, the testatrix directed her trustees to pay the income of her residuary estate to her two daughters during their joint lives and to the survivor during life, and after the death of the daughters to her son for life, and she then directed that " after the death of the survivors of my said daughters and son the trustees for the time being of this my will shall hold [the residue] upon trust for such relations of my said son and daughters as in the opinion of the survivor . . . shall be in needy circumstances " and for certain charitable objects. The testatrix died on 28th April, 1915, and the survivor of the daughters and son died in 1948 without having exercised the power of appointment. It was conceded by all parties concerned that the gift of the second half of the residuary estate was a good charitable gift. As regards the gift of the first half, viz., to relations in needy circumstances, Roxburgh, J., held that when considering whether gifts for the relief of poverty had some special quality, a distinction had to be drawn between trusts which had perpetual continuance in favour of a particular description of the poor and immediate bequests for distribution among poor relations; where the distribution among poor relations was to be completed within the period allowed by the rule against perpetuities, the recipients of the bounty could not be regarded as a particular section of the poor but had to be regarded as beneficiaries under a family trust; and the learned judge declared that a moiety of the residuary estate was not devoted to charitable purposes. The Attorney-General appealed.

EVERSHED, M.R., said that he had come to the conclusion that the disposition in question was one for the relief of poverty and entitled accordingly to qualify as a charitable disposition unless that result were defeated by the limitation of the class of possible beneficiaries to relations of the testatrix's children. The " poor relations " cases might be justified on the basis that the relief of poverty was of so altruistic a character that the public element might necessarily be inferred from it; or they might be accepted as a hallowed, if illogical, exception. In any case, the exception was in favour of trusts for " poor relations " and not of trusts of a particular type for poor relations. If the latter were the true view, then only those cases would be treated as exceptions to the general rule which on their facts were in substance identical with the " poor relations " cases in the books. Such a conclusion would lead to fine and irrational distinctions. The exception was of " poor relations " cases generally, that was, of cases in which the relief of poverty was to be exercised within a class of persons identified by reference to relationship with particular individuals, and not within a class constituting in strictness a section of the community. Consequently, in his (the learned judge's) judgment, the gift was devoted to charitable purposes.

JENKINS and HODSON, L.JJ., agreed. Appeal allowed.

APPEARANCES: *Cross*, K.C., and *Denys B. Buckley* for the *Attorney-General* (*Treasury Solicitor*); *L. L. W. Edwards*; *Pennycuick*, K.C., and *Wilfrid Hunt*; *E. B. Stamp*; *J. F. Bowyer* (*Pritchard, Englefield & Co.*, for *Cockshott & Rayner*, Southport).

[Reported by CLIVE M. SCHMITTHOFF, Esq., Barrister-at-Law.]

PRACTICE: COMPANY: PROCEEDINGS BEGUN WITHOUT AUTHORITY: SUBSEQUENT RATIFICATION

Danish Mercantile Co., Ltd., and Others *v.* Beaumont

Jenkins and Hodson, L.JJ. 4th April, 1951

Appeal from Roxburgh, J.

The plaintiff company, which was incorporated on 30th April, 1949, had a share capital of £2,000, owned or controlled in equal portions by S and H, who were the only two directors; the main object of the company was the importation of machinery from Denmark. On 4th May, 1949, S was appointed managing director with the power to conduct the affairs of the company as he in his sole discretion thought fit. Later disputes broke out, and S caused proceedings to be brought in the name, among other plaintiffs, of the company; the proceedings were not authorised by a general meeting of the company or by the board of directors, but S relied on the agreement appointing him managing director. The writ in the action was issued on 31st March, 1950, and in June a petition was presented for the winding-up of the company and the compulsory winding-up order was made in November, 1950. In 1951, a motion was presented in the action asking that the name of the company as plaintiffs be struck out on the ground that the action had been brought without the company's authority. It was alleged on behalf of the plaintiffs, and not disputed by the defendants, that the proceedings had been adopted by the liquidator. Roxburgh, J., dismissed the motion and the defendants appealed.

JENKINS, L.J., said that he did not find it necessary to determine whether the agreement of 4th May, 1949, authorised S to cause the proceedings to be brought in the name of the company and that he would proceed on the assumption that it was not effective to give him authority. He (the learned judge) did not accept the argument of the defendants that, where an action was brought without authority of the purported plaintiff, the action was a complete nullity so that no amount of subsequent ratification could cure the defect. So to hold would be to introduce an entirely novel doctrine into the ordinary law of principal and agent, and to make a new exception to the general rule that every ratification related back, and was deemed equivalent to an antecedent authority. The true position was simply that a solicitor who started proceedings in the name of a company without verifying whether he had proper authority to do so, or under an erroneous assumption as to the authority, did so at his own peril, and, so long as the matter rested there, the action was not properly constituted. In that sense it was a nullity and could be stayed at any time, providing the aggrieved defendant did not delay his application. But when the purported plaintiff had adopted and ratified the proceedings, then, in accordance with the ordinary law of principal and agent and the ordinary doctrine of ratification, the defect in the proceedings as originally constituted was cured.

HODSON, L.J., agreed. Appeal dismissed.

APPEARANCES: *Shelley*, K.C., and *H. E. Francis* (*Payne, Hicks Beach & Co.*); *Aldous* (*Osmond, Beard & Westbrook*).

[Reported by CLIVE M. SCHMITTHOFF, Esq., Barrister-at-Law.

CHANCERY DIVISION

MAINTENANCE ORDER: VARIATION: REFUSAL OF JUSTICES TO ADJUDICATE: MATTER MORE CONVENIENTLY DEALT WITH BY HIGH COURT

***In re* L**

Roxburgh, J. 7th March, 1951

Appeal from Tisbury and Mere justices. (Appeal heard in chambers but judgment given in open court.)

By an order of 10th June, 1948, the justices awarded the custody of two children to their mother and ordered their father to pay a weekly sum of 15s. each by way of maintenance. On 25th January, 1951, the mother applied to the justices for an increase of the amount payable for the maintenance of the children. The justices refused to make an order on the ground that the matter was one which could more conveniently be dealt with by the High Court. The wife appealed.

ROXBURGH, J., said that the justices were acting within the jurisdiction conferred on them by the Guardianship of Infants Act, 1925, s. 7 (3), which provided that where on an application to a court of summary jurisdiction under the Guardianship of Infants Act, 1886 (as amended), they made or refused to make an order, an appeal lay to the High Court, provided that where any such application was made to the justices and they considered that the matter was one which would more conveniently be dealt with by the High Court, they were entitled to refuse to make an order, and in such case no appeal should lie to the High Court. In the present case, the justices plainly considered that the "matter," that is to say, the application to vary the original order, was one which would more conveniently be dealt with by the High Court. He (the learned judge) could not consider whether the grounds which led them to their conclusion were good or bad; they reached that conclusion and that was the end of the matter; the Act provided that there should be no appeal. An originating summons in the Chancery Division would be more expensive but that was doubtless a matter which the justices did not think sufficiently serious to lead them to a different conclusion.

APPEARANCES: *G. G. Macdonald* (*Peacock & Goddard*, for *Farnfield & Nicholls*, Warminster); *T. A. C. Burgess* (*Kingsford, Dorman & Co.*, for *S. A. L. Weeden*, Brighton).

[Reported by CLIVE M. SCHMITTHOFF, Esq., Barrister-at-Law.]

WILL: GENERAL LEGACIES OF SHARES: DELAY IN APPROPRIATION: DIVIDEND PAID BEFORE APPROPRIATION

***In re* Hall; Barclays Bank, Ltd. *v.* Hall**

Danckwerts, J. 17th April, 1951

Adjourned summons.

By a will and codicil made in 1944, a testator directed a number of gifts of ordinary shares to various legatees. He gave altogether 9,900 ordinary shares out of 11,000 ordinary shares which he held; 1,100 ordinary shares fell into the residue. The shares which formed the subject-matter of the various gifts were not identified by numbers in the will and codicil. The testator died on 21st May, 1945, and as the administration of the estate was delayed by a prolonged dispute with the Estate Duty Office, the shares were not appropriated to the designated legatees before 31st October, 1948. In the meantime a substantial dividend was received by the executors on account of the shares.

DANCKWERTS, J., held that on the construction of the will the general principle favouring the construction of gifts as general rather than as specific applied and that the gifts of shares were accordingly general legacies. Further, the legatees could claim dividend only from the date of appropriation of the shares and were entitled only to payment of 4 per cent. per annum from the date of one year after the testator's death until the date of appropriation.

APPEARANCES: *A. H. Droop*; *Cross*, K.C., and *Peter Foster* (*Cree, Godfrey & Wood*, for *Thos. K. Dobson & Co.*, Weybridge); *John Mills* (*Ouvry & Co.*).

[Reported by CLIVE M. SCHMITTHOFF, Esq., Barrister-at-Law.]

KING'S BENCH DIVISION

RATING: WITHDRAWAL OF OBJECTION AFTER NOTICE OF APPEAL

R. *v.* East Norfolk Valuation Court; *ex parte* Martin

Lord Goddard, C.J., Hilbery and Hallett, JJ. 5th March, 1951

Application for an order of certiorari.

A valuation officer notified the occupiers of two new houses of the values at which he proposed to include them in the valuation list. The occupiers objected under s. 41 of the Local Government Act, 1948. The valuation officer appealed against the objections under s. 41 (6). The occupiers then withdrew their objections unconditionally, and the officer, acting under s. 41 (5), inserted the houses in the list at the proposed values. On the date which had been fixed for the hearing of the appeals against the objections, the valuation officer informed the respondent valuation court of the withdrawal of the objections. That court insisted on hearing the appeals, and, as the valuation officer declined to produce evidence in support of them, dismissed them, with the result that the properties, being new ones, were struck out of the valuation list. The valuation officer applied for an order of certiorari for the quashing of the order dismissing the appeals.

LORD GODDARD, C.J., said that the local valuation court were wrong in insisting that they were bound to hear the case although the valuation officer had withdrawn his appeal and had nothing to say because his valuation had been accepted. It was true that, by s. 48 (3) of the Act of 1948, when an appeal was heard, certain persons were entitled to appear at the court and to be heard; but, in this case, nobody appeared at the court except

the valuation officer, and apparently he was only there because he was concerned in other cases. The occupiers were the only persons who had served notice of objection against the proposal, and that notice had been unconditionally withdrawn, so that s. 41 (6) ceased to have effect. Once the objection was withdrawn, there was nothing on which the court could adjudicate, and nobody to give evidence. It was perfectly clear that in those circumstances the court could not of its own motion insist on going on with the appeal. He was not deciding what would have happened if, the objector having withdrawn his objection, one or more of the persons entitled by s. 48 (3) to be heard on an appeal had come to the court and desired to be heard. His impression was that, once the objection had been withdrawn, there was nothing upon which anybody could be heard: but that question did not arise in the present case. Order of certiorari.

APPEARANCES: *Sir Arthur Comyns-Carr*, K.C., and *M. Lyell* (*Solicitor of Inland Revenue*); *Erskine Simes*, K.C., and *F. A. Amies* (*Pollard, Stallabrass & George Martin*).

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

LIMITATION: DEFECTIVE WRIT CURED BY STATEMENT OF CLAIM AFTER EXPIRY OF PERIOD

Hill *v.* Luton Corporation

Devlin, J. 19th April, 1951

Appeal from a master.

On 28th January, 1950, the plaintiff was injured in an accident while a passenger in an omnibus belonging to the defendants, a local authority. The accident was due to their driver's negligence. On 17th July, 1950, she issued a writ claiming damages for negligence and breach of contract. About a fortnight after expiry of a year after the accident the writ was served with the statement of claim. The endorsement on the writ was admitted by the plaintiff to be defective for insufficient particularity. The defendants admitted that the statement of claim was so drafted as to cure the defect in the writ. The defendants contended that the action was barred because at the expiration of the limitation period there was in existence a defective writ, and that the action could not be saved by the defects being cured after that period had expired. The master ordered the writ and its service to be set aside, and the plaintiff now appealed. By s. 21 (1) of the Limitation Act, 1939: "no action shall be brought against any person for any act done in . . . execution . . . of any public duty . . . unless it is" instituted within one year of "the date on which the cause of action accrued."

DEVLIN, J., said that the writ was not rendered a nullity by its defective endorsement. The decisions in *Truslove* v. *Whitechurch* (1840), 8 Dowl. 837, and *Auster, Ltd.* v. *London Motor Coach Works, Ltd.* (1915), 112 L.T. 99, were applicable. The proposition that the writ was so nullified was in any event inconsistent with *dicta* in *Marshall* v. *London Passenger Transport Board* [1936] 3 All E.R. 83, at p. 90; 80 SOL. J., 893, and *Batting* v. *London Passenger Transport Board* [1941] 1 All E.R. 228, at p. 229, to the effect that a defective endorsement on a writ was curable by a properly drafted statement of claim, for *ex nihilo nihil fit*; and was also inconsistent with the court's allowing amendment of a defective endorsement. The action could only be barred by the defect in the writ if it ought to be set aside on the ground of the irregularity. There was, apart from any question of limitation, no power in the court to set aside a writ on the ground of a defective endorsement once the defect had been cured by delivery of a proper statement of claim. The interposition of the expiry of the limitation period between the issue of the defective writ and the delivery of the curing statement of claim made no difference, for the curing of the defect operated in the same way as if the plaintiff had the right to amend the writ without leave, and he was accordingly not in need of assistance from the court, whereas the defendant needed the assistance of the court in order to have the writ set aside. Moreover, since the defendant could not in any event expect to know his position until the writ was served, it could not affect him that he came to know of that position from two documents, the writ and the statement of claim, instead of one. *Marshall* v. *London Passenger Transport Board, supra, Battersby* v. *Anglo-American Oil Co., Ltd.* [1945] 1 K.B. 23, and *Huntly* v. *Gaskell* [1905] 2 Ch. 656 were distinguishable. The action was accordingly not barred, for it had been validly instituted within the prescribed period. The position would, however, be otherwise where the defect in a writ was such that the action could not be effectively prosecuted without some amendment which could only be granted with the leave of the court. Appeal allowed.

APPEARANCES: *M. D. Van Oss* (*Machin & Co.*); *J. G. K. Sheldon* (*William Charles Crocker*).

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

DIVISIONAL COURT

ENFORCEMENT NOTICE: EXPIRY OF APPEAL PERIOD

Perrins *v.* Perrins

Lord Goddard, C.J., Croom-Johnson and Streatfeild, JJ.
25th April, 1951

Case stated by Southport Justices.

By s. 23 (1) of the Town and Country Planning Act, 1947, if any development of land has been carried out after the appointed day (1st July, 1948) without permission, the local planning authority may within four years of the development serve an enforcement notice on the owner-occupier, which notice may, by s. 23 (2), require restoration of the land to its condition before development, including demolition of buildings. By s. 23 (3) an enforcement notice takes effect at the expiration of the period, not being less than twenty-eight days, specified in it, but if an appeal is lodged within the twenty-eight days the notice is of no effect pending determination of the appeal. Southport Corporation, as local planning authority, served on the defendants, the owner and occupier of land, an enforcement notice which alleged that unlicensed development of the land had taken place since 1st July, 1948, by its being allowed to be used as a site for habitable caravans and for camping, and required that development to be discontinued and the land to be restored to its original condition. In fact, the land was already being used for caravans and camping on 1st July, 1948. The defendants, not having complied with the notice, were charged on an information preferred by the town clerk of Southport with contravening s. 24 (3) of the Act by allowing the land to be used for caravans on specified dates in 1950. The defendants contended that, as the land was being used on 1st July, 1948, for caravans and camping and no change in its use had been made after that date, there had been no development of the land within the meaning of s. 12. The justices, being of opinion that the facts alleged in the enforcement notice, in particular the allegation that development had taken place since 1st July, 1948, required to be proved, and that the prosecutor had failed to establish that there had been any such development, held that there had been no contravention of s. 24 (3). The prosecutor appealed.

LORD GODDARD, C.J., said that, whether or not the allegation in the notice that development of the land had taken place since 1st July, 1948, was correct, as the defendants had not appealed against the notice within twenty-eight days, it became effective, and the facts which it alleged could not thereafter be challenged. By s. 24, which empowered a local planning authority to enter on land themselves to demolish a building which the owner or occupier has refused to demolish in compliance with the notice, and to sue him for the cost of doing so, the person so sued might not dispute the validity of the authority's action on any ground which he could have raised on an appeal under s. 23 (3). It would be manifestly absurd that, being so debarred by his failure to appeal within the prescribed period, an owner or occupier should still be entitled to challenge the validity of the order under which the authority had effected the demolition. The case must be remitted to the justices with a direction to convict.

CROOM-JOHNSON and STREATFEILD, JJ., agreed.

Appeal allowed.

APPEARANCES: *Baucher* (*Sharpe, Pritchard & Co.*, for *Town Clerk*, Southport); *Glover* (*Pritchard, Englefield & Co.*, for *Sydney Haworth*, Liverpool).

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

DIVISIONAL COURT

PRACTICE NOTE

LEGAL AID: LORD CHIEF JUSTICE'S CRITICISM

Lord Goddard, C.J., Croom-Johnson and Streatfeild, JJ.
27th April, 1951

Application for an order of certiorari.

The application is reported only for Lord Goddard, C.J.'s comments on the working of the legal aid scheme. The applicant stated in an affidavit that she and her husband were divorced in 1947. Of the six children of the marriage the custody of three was granted to the husband, the other three remaining with her. She married again in 1947. Of the three children left in the father's care, two were returned to the applicant's care in April, 1949. The third child, called Sally, was boarded out with foster parents,

with whom she was now still living. The applicant and Sally had been corresponding once a month, and the applicant had several times sent her gifts of money and sweets. In May, 1949, an officer of Middlesex County Council left at the applicant's house in her absence a form asking her to consent to the adoption of Sally by her foster parents. The applicant called at the local county council office and informed an officer that she refused her consent to the order, and was ready and willing to receive and care for Sally in her home. The applicant heard no more of the matter until she was notified by the children's department of the county council in September, 1950, that an adoption order in respect of Sally had been made on 12th August, 1949. The applicant sought to have that order quashed, complaining that she had never been asked to appear before the Juvenile Court, and had had no idea that the application for adoption was being pursued. The Divisional Court made an order of certiorari, the Lord Chief Justice saying that it was unnecessary to give a prepared judgment in what was a clear case of a lapse on the part of the officials concerned. The question of costs having arisen for discussion, counsel representing Sally's father, the applicant's former husband, said that the father appeared by counsel out of courtesy to the court, but did not oppose the application. Counsel stated that the father was an assisted person, and asked for an order for his costs.

LORD GODDARD, C.J., said that this seemed to be a case where legal aid had been granted for no purpose whatever. The father was present by counsel merely to say that he did not oppose the application. He (his lordship) could not understand many of the cases which came before the courts in which persons were granted legal aid at the public expense. It was a very serious matter. The country was being put to enormous expense through the granting of legal aid in cases where it should never have been granted at all. It appeared to be another development of the Welfare State that persons who had nothing that they wanted to say to the court yet appeared before it as assisted persons, and that their costs had then to be taxed and paid by the State. This was yet another of the cases which, the court hoped, would be brought to the notice of the appropriate authority.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

DIVISIONAL COURT

SOLICITORS: QUESTION OF FEES

***In re* W. A. Evill**

Lord Goddard, C.J., Oliver and Sellers, JJ. 1st May, 1951

Appeal from an order of the Disciplinary Committee constituted under the Solicitors Acts.

The Amalgamated Engineering Union made a practice of helping their members to buy houses. The appellant had an arrangement with the union whereby he was to act for them in their capacity as mortgagees and at the same time would charge the prospective purchaser of a house, who would be a member of the union, substantially less than would ordinarily be payable under the established scale of charges. The arrangement had been made many years previously, and a considerable amount of the business brought to the appellant by the union had been done by him on those terms. He charged the proper fee to the union as mortgagees, and then, instead of charging the scale fee to prospective purchasers, he charged them what was in fact little more than a nominal fee. It was complained that in so acting the appellant had failed to comply with rr. 1 and 2 of the Solicitors Practice Rules, 1936. By r. 1, "a solicitor shall not . . . permit in the carrying on of his practice any act . . . which can reasonably be regarded as calculated to attract business unfairly." By r. 2, "a solicitor shall not . . . allow himself to be held out . . . as being prepared to do professional business . . . in non-contentious matters . . . at less than two-thirds of the scale of charges fixed by" the regulations contained in the general order of 1882 made under the Solicitors Remuneration Act, 1881. The Committee imposed a penalty of £100, and the solicitor now appealed.

LORD GODDARD, C.J., said that the appellant had been acting in a way which, if he was free so to act, was beneficial so far as the particular member of the trade union was concerned. But the rules were designed not only to protect the clients of solicitors but also to preserve proper standards among solicitors themselves. The case of a solicitor acting for both parties, a mortgagee and a purchaser, was provided for by the rules: he received scale and a half—not double. The appellant, however, and he (his lordship) was not suggesting that he had no reason for his attitude, made it clear to the prospective purchaser that he would be charging the union the proper fee for the mortgage and for investigating the title for them; that he would therefore not have to investigate the title all over again for the purchaser; and that he would accordingly not make the charge for investigating title to the latter because he had not done that work for him. That, however, was not what the relevant rule said: if the appellant investigated a title, he did so for the purchaser as well as for the mortgagees, even if he did not go through the farce of doing it all over again a second time. A solicitor acting for both parties owed a duty to both. By r. 6 of the general order of 1882 he ought to charge scale and a half in such a case, and if he said that he would not charge that but only something very much less, then he was, to put it shortly, undercutting. In the present case, the amount which the member of the union would have had, as purchaser, to pay under the scale was £24, whereas the appellant charged him only £4 15s. The appellant, it should be said, had been perfectly frank throughout. The evidence on which the Disciplinary Committee had acted was in substance contained in his own letter written in reply to the complaint. In his (his lordship's) opinion, in acting as he had, the appellant had undoubtedly infringed rr. 1 and 2 of the rules of 1936, and the appeal should be dismissed.

OLIVER and SELLERS, JJ., agreed.

APPEARANCES: *Gilbert Paull*, K.C., and *Colin Duncan* (*Sidney Redfern & Co.*); *C. R. Havers*, K.C., and *J. R. Cumming-Bruce* (*Hempsons*).

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

PROBATE, DIVORCE AND ADMIRALTY DIVISION

PRACTICE NOTE

LEGAL AID: REVOCATION OF CERTIFICATE: SOLICITOR'S RIGHT TO COSTS

Lord Merriman, P., and Willmer, J. 2nd May, 1951

Appeal from justices. (The case is reported only on a question of costs under the legal aid scheme.)

The court dismissed the appeal, which was by the husband, and adjourned the question of costs for further investigation of the circumstances in which the husband had sworn before the justices that he had a large sum of money (disclosed to be in excess of £800) and yet had shortly afterwards become an assisted person on the basis that he had no disposable capital. It was not suggested that the local committee had or could have had any inkling of the facts.

LORD MERRIMAN, P., said that, having heard the husband's evidence on oath, the court would revoke *ab initio* the legal aid certificate which had been granted to him for the purpose of his prosecuting his appeal. He must pay the costs of the appeal; and, in addition to revoking the certificate under reg. 11 (4) of the Legal Aid (General) Regulations, 1950, the court would direct that the papers should be sent to the Director of Public Prosecutions, and that the part taken in the proceedings by a solicitor who, at the time when the application for legal aid was made, acted for the husband, should be further investigated by The Law Society.

Counsel for the husband then asked that the husband's costs should be taxed as between solicitor and client, and submitted that by reg. 12 (3) of the regulations of 1950 the husband's solicitors were entitled, even though the certificate had been revoked, to tax the costs and that the fund would recover them from the appellant.

LORD MERRIMAN, P., said that the court had no option, as the regulations stood, but to make the order sought. It was, however, a fantastic position that the court was obliged to order that the firm of solicitors should recover the costs in full in spite of the fact that the activities of the person actually employed had raised serious questions which required further investigation by The Law Society in the present circumstances. It might be a matter for consideration whether some modification was required in the regulations.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Mr. J. N. MARTIN, senior assistant solicitor to Hampstead Borough Council, has been appointed to a similar post with Derbyshire County Council.

Mr. F. T. ALPE has been appointed Recorder of Great Yarmouth.

Mr. O. LLOYD MATTHEWS has been appointed assistant solicitor to Caernarvonshire County Council.

SURVEY OF THE WEEK

HOUSE OF LORDS

A. Progress of Bills

Read First Time :—

British Transport Commission Bill [H.C.] [1st May.
Courts-Martial (Appeals) Bill [H.C.] [1st May.
Great Yarmouth Port and Haven Bill [H.C.] [1st May.
Trent River Board Bill [H.C.] [1st May.

Read Second Time :—

Fraudulent Mediums Bill [H.C.] [3rd May.
New Streets Bill [H.C.] [3rd May.

Read Third Time :—

Aberdeen Chartered Accountants' Widows' Fund Order Confirmation Bill [H.C.] [2nd May.
Baptist and Congregational Trusts Bill [H.L.] [1st May.
Edinburgh Chartered Accountants' Annuity, etc., Fund Order Confirmation Bill [H.C.] [2nd May.
Fire Services Bill [H.C.] [3rd May.
Forestry Bill [H.L.] [3rd May.
Humber Conservancy Bill [H.C.] [1st May.
Long Leases (Temporary Provisions) (Scotland) Bill [H.C.] [3rd May.
Rag Flock and Other Filling Materials Bill [H.L.] [3rd May.
Salmon and Freshwater Fisheries (Protection) (Scotland) Bill [H.C.] [1st May.
Sea Fish Industry Bill [H.C.] [3rd May.
The Reverend J. G. MacManaway's Indemnity Bill [H.C.] [3rd May.
Uttoxeter Urban District Council Bill [H.L.] [1st May.

B. Debates

On the Second Reading of the **New Streets Bill,** Lord Llewellyn said there were two points of importance which he wished to raise at this stage. Clause 24 took away the right of appeal to a court and substituted the right of appeal to a Minister, or, rather, a person appointed by a Minister. It was expressly provided that an appellant should have an opportunity of being heard by the official, but what was required was that he should have the right of cross-examining the representative of the local authority—usually the borough surveyor, or somebody from his office—who had assessed either the total charges or the frontage charges. It ought to be possible to cross-examine him as to what sort of work was to be put into the road and as to why the charges were, say, £3 10s., whilst in some other locality they worked out at only £2.

Referring to cl. 3, his lordship said that when the sum required had been paid or secured, the person doing that " shall be deemed to be discharged to the extent of the sum so paid or secured." He did not know why the last phrase was there at all. He thought the object of the measure was that once an owner had paid the assessed amount he had paid the necessary charge. It seemed that if the work was put off for three or four years, with the result, perhaps, that the charges went up, a second charge might be levied because the amount might be deemed to be discharged only to the extent of the sum so paid or secured.

Lord Marlay said that if, when an unadopted street was subsequently made up, it was found that the cost of the frontage was more than the frontager had paid, he would have to make up the difference. The reason he would have to pay the difference was that, if he did not, other people would have to pay for the making up of his street. He would have had to pay that larger sum in any case when the street was made up. Having paid a certain sum at the time he built the house, the frontager would have to pay only a small addition when the road was made up. He was credibly informed that the cost of making up roads was not rising. He would look into the other points raised by Lord Llewellyn. [3rd May.

On the Second Reading of the **Fraudulent Mediums Bill,** Lord Dowding said the Bill had a twofold object; firstly, it was designed to ensure that there should exist penalties adequate to deter the practice of fraudulent mediumship. The present maxima of twelve months' imprisonment and/or a fine of £25 under the Vagrancy Act and the Witchcraft Act would be raised by the present Bill to two years' imprisonment and a fine of £500. The Bill also gave the accused the opportunity of electing for trial by jury if he so desired. The second object of the Bill was to abate a present injustice. The Vagrancy Act, 1824, was passed at a time when spiritual mediumship as now understood was virtually unknown, and s. 4 of the Act had been aimed largely at disreputable persons, many living on the proceeds of prostitution or by " pretending or professing to tell fortunes." The Act had been first invoked for the prosecution of a spiritualist medium in 1876, and thereafter mediums had been subjected to all the indignities of street arrest and classification as " rogues and vagabonds " or " incorrigible rogues." Under the Witchcraft Act, 1835, a prosecution could be successfully brought merely for claiming to be a medium.

The Bill, whilst providing for greatly increased penalties, required that no medium could be punished unless proved guilty of deliberate fraud. The Bill also provided that a person should not be convicted of an offence under the Act unless he had acted for a reward or for some valuable consideration—not necessarily paid to the accused. This meant that a medium was protected if he had no financial motive. The Bill also discouraged frivolous accusations by requiring the consent of the Director of Public Prosecutions to a prosecution. Finally, nothing in cl. 1 (1) of the Bill would apply to anything done solely for the purpose of entertainment. If there was a stage show which either claimed to be mediumistic or left it open as to how the tricks were performed, and it was done purely in the line of entertainment, the person concerned would not be liable to prosecution. [3rd May.

C. Questions

Salaries of County Court Judges

The Lord Chancellor stated that the question of the salaries of county court judges had been receiving consideration in accordance with the resolution of the House which had been accepted in February. Much progress had been made and he could assure Lord Llewellyn that the consideration would be concluded without any avoidable delay. He hoped that it would be possible to make an announcement as to the Government's intentions before very long. [2nd May.

Peers and Offices of Profit

Lord Pakenham gave a list of members of the House of Lords who appeared to hold " offices of profit under the Crown " within the meaning of the Succession to the Crown Act, 1707. He stated that in addition to those listed there were two archbishops, twenty-four bishops, nine lords of appeal in ordinary, the Lord Chief Justice of England, the President of the Probate, Divorce and Admiralty Division and the Lord Chief Justice of Northern Ireland. It might be argued that some or all of these held offices of profit under the Crown, although statutes other than the Succession to the Crown Act, 1707, governed their disqualification from sitting and voting in the House of Commons. Noble lords holding offices on the boards of the various nationalised industries had been included in the list, although the statutes under which they were appointed provided not that such office holders were disqualified from membership of the House of Commons, but that members of the House of Commons were disqualified from holding such offices. [3rd May.

HOUSE OF COMMONS

A. Progress of Bills

Read First Time :—

Sir William Turner's Hospital at Kirkleatham Bill [H.C.] [2nd May.

To confirm a Scheme of the Charity Commissioners for the application or management of the charity known as Sir William Turner's Hospital, at Kirkleatham, in the North Riding of the County of York.

University of Edinburgh (Royal (Dick) Veterinary College) Order Confirmation Bill [H.C.] [3rd May.

To confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act, 1936, relating to University of Edinburgh (Royal (Dick) Veterinary College).

Read Second Time :—

Coal Industry Bill [H.C.] [30th April.
Reserve and Auxiliary Forces (Protection of Civil Interests) Bill [H.C.] [3rd May.

Read Third Time :—

Airdrie Corporation Order Confirmation Bill [H.C.] [4th May.

To confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act, 1936, relating to Airdrie Corporation.

Canterbury Extension Bill [H.L.] [4th May.

Common Informers Bill [H.C.] [4th May.

Criminal Law Amendment Bill [H.C.] [4th May.

Fireworks Bill [H.C.] [4th May.

Pet Animals Bill [H.C.] [4th May.

Trent River Board Bill [H.C.] [30th April.

Worcester Corporation Bill [H.C.] [4th May.

In Committee :—

National Health Service Bill [H.C.] [2nd May.

B. Debates

On the Committee Stage of the **Courts-Martial (Appeals) Bill**, the Lord Advocate said the Bill provided that the court should be deemed to be duly constituted " if it consisted of not less than three judges (of whom at least one is the Lord Chief Justice or a puisne judge of the High Court) and of an uneven number of judges." He proposed an amendment to permit the court, when it was sitting outside the United Kingdom, to sit without the Lord Chief Justice or without a puisne judge. It was manifestly desirable that a judge should be included in the court whenever possible, but the amendment gave the Lord Chancellor power to dispense with the requirement in the circumstances indicated. The amendment was agreed to.

Next, an amendment was moved to enable rules of court to be made which would allow a person convicted by court-martial who wished to appeal to present a petition to someone who was on the spot. It was desirable that the petition, which was a condition precedent for an appeal, should be deemed to be presented when it was handed in by the condemned person locally, wherever he might be, otherwise a man would have no means of knowing from what time the limitation period ran. There was also the possibility, particularly in war-time, of a petition going astray or not reaching the appropriate authority in time. The rules would also prescribe for a variety of circumstances who was to be deemed the appropriate person on the spot to receive the petition. Normally, but not always, the appropriate person would be the accused's commanding officer. This amendment was also agreed to.

With regard to cl. 6 (powers of the court in special cases), the Lord Advocate said that under a rule of procedure a court-martial, instead of recording a finding of " not guilty," could record a special finding if it was of the opinion that the facts as proved differed materially from the facts alleged in the particulars of the charge, but were nevertheless sufficient to prove the offence stated in the charge, and that the difference was not so material as to prejudice the accused in his defence. He proposed an amendment which would enable the appeal court, if satisfied that a special finding ought to have been substituted for the finding of the court-martial, instead of allowing or dismissing the appeal, to substitute such special finding. Mr. Leslie Hale said he strongly objected to the amendment. He did not like the way in which a court could say that a man should not have been convicted, and then, notwithstanding that, say : " No substantial miscarriage of justice has taken place, and therefore we let the sentence stand." As, however, the matter intimately concerned the general law of the land, he did not propose to press it at that stage. The amendment was agreed to. [30th April.

C. Questions

Planning (Development Charges)

Mr. Dalton said that he had no power to vary or rescind a determination of a development charge made by the Central Land Board. In reply to a further question by Mr. Robson-Brown, Mr. Dalton said he had given no directions to the Central Land Board that they should set out to a developer the basis on which they had assessed the development charge and answer in detail all arguments put forward by a developer against such assessment. The Town and Country Planning Act, 1947, and the regulations made thereunder, laid down the basis on which the development charge should be assessed. The district valuer acting for the Board always told the developer the amount of the charge he proposed to make and invited him to call and discuss it if he did not agree with it. [27th April.

Fatal Accidents (Damages)

Mr. J. Foster asked the Attorney-General whether he would direct that damages under the Fatal Accident Acts and the like which were remitted to the county courts to be invested for the benefit of widows and minors should be invested in Government trustee securities which yielded up to £3 17s. 6d. instead of being treated as funds in court earning only 2½ per cent. interest. Sir Hartley Shawcross said the system in the county court of treating damages under the Fatal Accidents and other Acts as funds in court was introduced in 1935 in place of the former system under which funds were invested on behalf of the beneficiaries in trustee securities. He understood that under the old system there were frequent complaints by beneficiaries of loss by the depreciation in value of securities. Such loss did not now fall on the beneficiary. Furthermore, the beneficiary was saved brokerage and stamp duties. The preservation of the capital sum was, he thought, a matter of greater importance than the slightly higher rate of interest, and he was satisfied that the new system was generally to the advantage of the beneficiaries. [30th April.

Empty House Requisitioning

Mr. Hugh Dalton said he was aware of the inability to find houses for letting because they were all being offered for sale at extortionate prices. He declined, however, to restore to local authorities the general power to requisition empty properties for rehousing purposes without his previous sanction in each individual case. He considered this a very proper regulation because it cost the Treasury a lot of money to requisition property. [1st May.

Rent Restriction Acts

Mr. Hugh Dalton said he did not think he could give effect in the present Parliament to the undertaking of his predecessor in 1949 to amend and consolidate the Rent Restriction Acts. [1st May.

Accused Persons (Investigations)

Mr. Raymond Blackburn asked the Home Secretary whether he would issue a direction and circular forbidding or advising against the holding of general investigations by police officers into the character and antecedents of accused persons before the trial. In reply, Mr. Chuter Ede said that the courts expected the police to be in a position to give information about these matters after they had decided to convict so that they might be able to assess the appropriate method of dealing with the offender. Inconvenience and expense would be caused to all concerned, and the interests of the defence itself might be prejudiced if the inquiries were not instigated till after the trial, with the result that every convicted person would have to be remanded for inquiries to be made as to his character and antecedents. [3rd May.

STATUTORY INSTRUMENTS

Adult Education (Scotland) (Residential Institutions) Grant Regulations, 1951. (S.I. 1951 No. 740 (S. 38).)

Argyll County Council (Abhuinn Gleann Na Rainich) Water Order, 1951. (S.I. 1951 No. 761 (S. 41).)

Argyll County Council (Tayvallich) Water Order, 1951. (S.I. 1951 No. 759 (S. 39).)

British Wool (Guaranteed Prices) Order, 1951. (S.I. 1951 No. 744.)

Cheese (Amendment) Order, 1951. (S.I. 1951 No. 728.)

Chichester Corporation (Funtington) Water Order, 1951. (S.I. 1951 No. 764.)

Claims for Depreciation of Land Values (National Coal Board) Regulations, 1951. (S.I. 1951 No. 746.)

Claims for Depreciation of Land Values (National Coal Board) (Scotland) Regulations, 1951. (S.I. 1951 No. 734 (S. 35).)

Coal Distribution (Restriction) Direction, 1951. (S.I. 1951 No. 729.)

Coffin Furniture and Cerement-Making Wages Council (Great Britain) Wages Regulation Order, 1951. (S.I. 1951 No. 730.)

Cream (Revocation) (Amendment) Order, 1951. (S.I. 1951 No. 714.)

Feeding Stuffs (Rationing) (General Licence) Order, 1951. (S.I. 1951 No. 745.)

Fire Services (Ranks and Conditions of Service) (No. 2) Regulations, 1951. (S.I. 1951 No. 715.)

Furniture (Maximum Prices) (Amendment No. 4) Order, 1951. (S.I. 1951 No. 750.)

Gas (Conversion Date) (No. 28) Order, 1951. (S.I. 1951 No. 735.)

Haverfordwest (St. David's) Water Order, 1951. (S.I. 1951 No. 718.)
Highways (Provision of Cattle-Grids) Act, 1950 (Commencement) Order, 1951. (S.I. 1951 No. 762 (C. 2).)
Hungerford-Gloucester-Ross-Hereford Trunk Road (Aldbourne-Liddington Section) Order, 1951. (S.I. 1951 No. 702.)
Import Duties (Drawback) (No. 12) Order, 1951. (S.I. 1951 No. 712.)
Import Duties (Drawback) (No. 13) Order, 1951. (S.I. 1951 No. 713.)
Importation of Raw Cherries Order, 1951. (S.I. 1951 No. 770.)
Irvine and District Water Board Water Order, 1951. (S.I. 1951 No. 760 (S. 40).)
London-Edinburgh-Thurso Trunk Road (Marden Plantation, Haggerston, Diversion) Order, 1951. (S.I. 1951 No. 701.)
London Traffic (Festival of Britain) (Traffic Notices) Regulations, 1951. (S.I. 1951 No. 737.)
London Traffic (Miscellaneous Provisions) (Amendment) Order, 1951. (S.I. 1951 No. 736.)
London Traffic (Prescribed Routes) (No. 6) Regulations, 1951. (S.I. 1951 No. 767.)
London Traffic (Prescribed Routes) (No. 7) Regulations, 1951. (S.I. 1951 No. 768.)
Marginal Agricultural Production (Scotland) (Amendment) Scheme, 1951. (S.I. 1951 No. 732 (S. 36).)
Milk (Control and Maximum Prices) (Northern Ireland) Order, 1951. (S.I. 1951 No. 739.)
National Health Service (Travelling Allowances, etc.) (Scotland) Amendment Regulations, 1951. (S.I. 1951 No. 733 (S. 37).)
National Insurance (Industrial Injuries) (Claims and Payments) Amendment Regulations, 1951. (S.I. 1951 No. 743.)
Poisons List (Amendment) Order, 1951. (S.I. 1951 No. 721.)
Poisons Rules, 1951. (S.I. 1951 No. 722.)
Police (Grant) Order, 1951. (S.I. 1951 No. 738.)
Retention of Cables and Pipe under Highways (Essex) (No. 2) Order, 1951. (S.I. 1951 No. 705.)
Retention of Cables under Highways (Renfrewshire) (No. 1) Order, 1951. (S.I. 1951 No. 707.)
Retention of Pipe under Highway (Nottinghamshire) (No. 1) Order, 1951. (S.I. 1951 No. 708.)
Shotwick - Frodsham - Warrington Trunk Road (Walton Diversion) Order, 1951. (S.I. 1951 No. 704.)
Stopping up of Highways (Buckinghamshire) (No. 2) Order, 1951. (S.I. 1951 No. 706.)
Stopping up of Highways (Kent) (No. 3) Order, 1951. (S.I. 1951 No. 710.)
Stopping up of Highways (Staffordshire) (No. 2) Order, 1951. (S.I. 1951 No. 749.)
Stopping up of Highways (Wiltshire) (No. 6) Order, 1951. (S.I. 1951 No. 703.)
Stopping up of Highways (Wiltshire) (No. 7) Order, 1951. (S.I. 1951 No. 709.)
Stopping up of Highways (Wiltshire) (No. 8) Order, 1951. (S.I. 1951 No. 700.)
Tanganyika (Companies Dominion Register) Order in Council, 1951. (S.I. 1951 No. 752.)
Tea (Prices) (Amendment) Order, 1951. (S.I. 1951 No. 727.)
Teachers Superannuation (Approved External Service) Rules, 1951. (S.I. 1951 No. 720.)
Town and Country Planning (National Coal Board) Regulations, 1951. (S.I. 1951 No. 716.)
Town and Country Planning (National Coal Board) (Scotland) Regulations, 1951. (S.I. 1951 No. 725 (S. 34).)
Transfer of Functions (Minister of Health and Minister of Local Government and Planning) (No. 2) Order, 1951. (S.I. 1951 No. 753.)
Transfer of Functions (Minister of Local Government and Planning and Minister of Transport) Order, 1951. (S.I. 1951 No. 751.)
Utility Apparel (Gaberdine Raincoats) (Manufacture and Supply) (Amendment No. 3) Order, 1951. (S.I. 1951 No. 731.)
Utility Apparel (Men's and Boys' Shirts, Underwear and Nightwear) (Manufacture and Supply) (Amendment No. 2) Order, 1951. (S.I. 1951 No. 766.)
Utility Furniture (Marking and Supply) (No. 2) (Amendment) Order, 1951. (S.I. 1951 No. 765.)
Wages Regulation (Unlicensed Place of Refreshment) (Holidays) Order, 1951. (S.I. 1951 No. 747.)

POINTS IN PRACTICE

Questions from solicitors who are REGISTERED ANNUAL SUBSCRIBERS are answered without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of he staff, are responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 88-90 Chancery Lane, W.C.2, and contain the name and address of the subscriber, and a stamped addressed envelope.

Enforcement of Maintenance Order in Scotland—Divorce Proceedings Pending

Q. We have been consulted by a petitioner in divorce proceedings which were commenced over four years ago against the husband, a Scot who deserted and returned to Scotland. The case has come before the Reporters (in the Scottish courts) and has been remitted for further evidence but, in spite of this being supplied, the matter does not appear to progress. The petitioner was a widow before the present marriage took place and has, as a result thereof, lost her pension rights and, with the present deadlock, her financial position has deteriorated to such an extent that she has been compelled to go to work. Can proceedings be commenced against the husband in the local magistrates' court for maintenance under the Maintenance Orders Act, 1950, whilst divorce proceedings are still pending in the Scottish courts? If proceedings can be commenced what extent of arrears of maintenance can be claimed from the husband, none having been paid by the respondent under an order that was made in the local magistrates' court in November, 1945, prior to the inception of the divorce proceedings, and that could not be enforced in Scotland?

A. The Maintenance Orders Act, 1950, Pt. II, will enable the order made in 1945 by the English magistrates' court to be registered in the appropriate sheriff court in Scotland and the latter court may then enforce payments under the order (including arrears, subject to s. 20 (3)). The appropriate sheriff court is the one acting for the place where the husband is (s. 17 (3)). Proceedings for the arrears cannot be commenced in England. In an address to the Magistrates' Association (printed in the *Justice of the Peace*, 29th October, 1949), Denning, L.J., expressed the opinion that, where summary proceedings for a maintenance order had been adjourned because the other side had begun High Court proceedings, magistrates could still make an interim order in the wife's favour under the Summary Jurisdiction (Separation and Maintenance) Act, 1925, s. 6. By analogy, it would seem proper likewise to enforce payments under an existing maintenance order pending the hearing of a divorce petition and provided no question of alimony "*pendente lite*" had been before the Scottish High Court. Whether the Scottish court would look with favour on such procedure is, however, an open question. It would certainly be advisable to obtain leave from the Scottish High Court to follow this procedure; this could perhaps be done by letter (see the *Justice of the Peace*, 29th July, 1950, p. 426). As stated, the enforcement of the summary order will be a matter for the sheriff. The whole of the arrears accrued since November, 1945, may be claimed, with the leave of the sheriff court (s. 20 (3)). The delay in the Scottish High Court seems difficult to explain; doubtless agents in Scotland have advised as to how far the wife can take advantage of the Legal Aid and Solicitors (Scotland) Act, 1949. If the wife is insistent on having her divorce, we have nothing to add. If, however, she is keener on having maintenance, she could withdraw her divorce petition and then apply to the English magistrates' court which made the order in 1945 to increase it to the new *maxima* of £5 per week for herself and 30s. per week for each child (see the Maintenance Orders Act, 1950, s. 1 (2) (*b*)). The fresh order could then be registered under Pt. II of the 1950 Act in the sheriff court. Of course, she may be content with the present order or be unable to prove that her husband's means have increased (his attendance for cross-examination cannot be enforced in England: see s. 15 (5)). In that case, on withdrawing the divorce petition, she can forthwith proceed to register the order in the appropriate sheriff court and have it enforced.

Estate Duty—Gift of Farms Followed by Lease to Donor

Q. A farmer owns two farms, one of which he occupies and farms himself; the other is let. He proposes to convey by way of gift both farms to his three sons jointly as tenants in common; immediately after the conveyance to them he proposes

the three sons shall execute a lease in his favour of the farm he occupies at a fair rent fixed by independent valuation and that he shall continue to farm it himself. Provided he lives for five years after the conveyance, would the conveyance of the farm he will continue to occupy and farm be a perfect gift without reservation of benefit to the father so as to escape estate duty on both farms on the father's death ?

A. Although the relevant statutory wording is not completely clear, there is no doubt as a matter of practice that the grant of the lease would not operate to prevent the conveyance being a gift without reservation of benefit—it is, of course, essential that the rent should be duly paid to the sons for their own use and benefit. Counsel have advised on more than one occasion that the above is not only good practice but good law.

NOTES AND NEWS

Honours and Appointments

The King has signified his intention of appointing Mr. CECIL ROBERT HAVERS, K.C., to be a Judge of the High Court. The Lord Chancellor will assign Mr. Havers to the Probate, Divorce and Admiralty Division, and, with the approval of the President of that Division, will transfer Mr. Justice PILCHER to the King's Bench Division.

Mr. A. G. MEECHAM, assistant solicitor to Bury Corporation, has been appointed to a similar post at Bath.

Miscellaneous

The next quarter sessions for the county borough of Smethwick will be held at the Law Courts, Crocketts Lane, Smethwick, on 22nd May at 10.30 a.m.

DOUBLE TAXATION—NORWAY

A double taxation convention between the United Kingdom and Norway was signed on 2nd May. The convention, which is subject to ratification, provides for avoidance of double taxation on income and profits and is expressed to take effect in the United Kingdom from 6th April, 1950. The convention is in general similar to those already made with the United States of America, certain Commonwealth countries, France, the Netherlands, Sweden and Denmark.

THE SOLICITORS' LAW STATIONERY SOCIETY, LIMITED

The report of the directors of The Solicitors' Law Stationery Society, Limited, for the year 1950 states that the sales again showed a substantial increase over the previous year. The profit for the year was also higher and amounted to £112,430. The directors recommend that a dividend of 17 per cent. per annum, less income tax, be paid in respect of the year. A bonus will be payable to the staff under the profit-sharing scheme. They also recommend the provision of £43,648 against estimated liability for income tax and profits tax, the addition of £10,000 to the rebuilding reserve, £5,000 to general reserve, £5,000 to the taxation equalisation reserve and £2,000 to the provision for women's pensions, and the carrying forward of the sum of £26,050 against £24,556 brought forward from the previous year.

The annual meeting will be held at 88–90 Chancery Lane, W.C.2 (first floor), on Tuesday, 29th May, at 12.30 o'clock.

A report of the proceedings will appear in our issue of 2nd June.

Wills and Bequests

Mr. B. W. Attlee, solicitor, of Romsey, left £12,912.

Mr. A. E. Balfour, solicitor, of Ware, left £54,216.

Mr. C. H. Stobart, solicitor, of Wigan, left £21,659 (£21,480 net).

Mr. C. F. Walton, solicitor, of Leadenhall Street, London, E.C.3, left £70, 913.

OBITUARY

MR. A. BATHURST

Mr. Algernon Bathurst, solicitor, of Wimbledon, formerly of Lincoln's Inn Fields, died on 4th May, aged 88. He was admitted in 1887.

MR. J. R. C. BATHURST

Mr. James Richard Cort Bathurst, solicitor, of Streatham, London, S.W.16, has died at the age of 66. He was admitted in 1916, was a member of Camberwell Council from 1922 to 1925, and was a Freeman of the City of London.

CASES REPORTED IN VOL. 95

17th March to 12th May, 1951

For list of cases reported up to and including 10th March, see *ante*, p. 160

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